IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 2398 of 2006

Shri Shakil Kasim Chaugule
and others ..Petitioners

vs.

1.The State of Maharashtra
and others ..Respondents

Shri P.K.Dhakephalkar with Shri S.U.Dhakephalkar i/b Shri Harshad Bhadbhade for petitioners.
Smt.V.S.Mhaispurkar, A.G.P. for respondent no.1
Shri A.R.Lambey i/b M/s Lambey and Co. for respondent nos. 2 and 3.

CORAM: S.B.MHASE J.
17th April, 2006

P.C.

1. Heard the learned counsel for the parties.

2. The subject matter of the suit is the auctioned sand. It is the case of the petitioners that by playing fraud in respect of publication of the advertisement in respect of the auction, auction has been carried out and, therefore, the said auction is challenged. The suit is pending. The Trial Court initially had granted interim injunction in favour of the petitioners, however, that is vacated by the Appellate Court in Misc.Appeal and, therefore, the present petition.

3. If the suit is kept pending without granting any protection the sand will be lifted and even if it is

subsequently proved that auction was fraudulent one the remedy cannot be provided and the damage suffered cannot be compensated. Further if there is a proper publication there is every likelihood of sand being auctioned for higher price and thereby the Government will get proper revenue. Under these circumstances, the claim made by the petitioners requires to be investigated first in point of time than the sand is lifted from the said site. No doubt every year in the rainy season new sand accumulates and prior to that season earlier auctioned sand requires to be lifted and, therefore, there is urgency in disposal of the suit. Taking into consideration the nature of the suit the learned Counsel for the petitioners has shown willingness to go with the suit on day today basis from 20th April, 2006 since the pleadings of all the parties are complete and are also on record. The learned Counsel for the respondents and the learned A.G.P. appearing for State are also ready to go with the final hearing of the suit. However, the Counsel representing the respondents further requested that the hearing of the suit should proceed on day today basis and should be completed prior to commencement of summer vacation i.e.prior to 29th April, 2006. In view of this concession given by the learned Counsel for the parties, the Trial Court is hereby directed that the hearing of the suit shall be commenced on 20th April, 2006 and shall be completed with judgment on or before 29th April, 2006. If necessary the Trial Court shall proceed with the hearing of the suit on day today basis i.e. ad-idem till final hearing of the suit.

Parties are directed to cooperate with the Trial Court. With these observations the petition is disposed of.

3. Interim order to remain in force till final disposal of the suit. Parties to appear before the Trial Court on 20th April, 2006 at 11.00 a.m.

4. Parties and the Trial Court to act on authenticated copy of this order.

(S.B.MHASE J.)